

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF SOUTHWEST GAS CORPORATION )  
FOR THE ESTABLISHMENT OF JUST AND )  
REASONABLE RATES ANDS CHARGES )  
DESIGNED TO REALIZE A REASONABLE )  
RATE OF RETURN ON THE FAIR VALUE )  
OF THE PROPERTIES OF SOUTHWEST )  
GAS CORPORATION DEVOTED TO ITS )  
OPERATIONS THROUGHOUT THE STATE )  
OF ARIZONA. )

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SUPPLEMENT TO POST-HEARING REPLY BRIEF  
OF  
SOUTHWEST GAS CORPORATION

Southwest Gas Corporation (Southwest) respectfully supplements its November 14, 2005 Post-Hearing Reply Brief by replying to the Opening Brief of Southwest Energy Efficiency Project and Natural Resources Defense Council (SWEEP/NRDC). Southwest received a copy of SWEEP/NRDC's Opening Brief on November 14, 2005, the day on which post-hearing reply briefs were due. Southwest is confident that SWEEP/NRDC's Opening Brief was mailed on November 4, 2005, the day on which it was filed, and that the delay is not attributable to SWEEP/NRDC.

***SWEEP/NRDC Urge Commission Consideration – In A Timely Manner – Of A Mechanism That Breaks The Link Between A Utility's Financial Health And Energy Sales***

SWEEP/NRDC include the following statement in their post-hearing Opening Brief:

SWEEP/NRDC agree that the issue of the financial disincentive to natural gas utility support of energy efficiency should be addressed in Arizona in a timely manner. This will be necessary if Arizona wants to fully tap the potential for its lowest cost natural gas resource – cost-effective energy efficiency improvements.

SWEEP/NRDC believe that the gas utility financial disincentive issue and a full analysis of the pros and cons of mechanisms for removing the financial disincentive, **including but not limited to the Conservation Margin Tracker (CMT)**, should be reviewed and evaluated prior to Commission adoption of a specific mechanism. [Emphasis added]. [lines 16-23 on page 7].

The foregoing statements are virtually identical to the statements included in the July 26, 2005 prefiled direct testimony of SWEEP/NRDC. [See lines 17-26 on page 8 of Exhibit No. SWEEP-1]. Between July 26, 2005, and the time SWEEP/NRDC filed their post-hearing Opening Brief, a very thorough evidentiary record had been developed regarding the pros and cons of adopting a mechanism such as the CMT.

Unfortunately, SWEEP/NRDC do not discuss or otherwise acknowledge the in-depth analysis of the concept of a decoupling mechanism such as the CMT that transpired during the hearing. To obviate repetition, since SWEEP/NRDC's stated position in their prefiled direct testimony is unaltered by their post-hearing Opening Brief, Southwest directs attention to pages 40-43 of Southwest's Post-Hearing Opening Brief, where Southwest addresses fully SWEEP/NRDC's position regarding the adoption of a decoupling mechanism in this proceeding.

Southwest submits that the time to deal with the financial disincentive issue is now, particularly in light of the aggressive DSM and energy-efficiency programs being touted by many of the parties for implementation during the time the rates to be established in this proceeding would be in effect.

***Last Week, NARUC Adopted, And AGA Supported, A Resolution Recommending The Consideration Of Innovative Rate Designs To Encourage Conservation And Energy Efficiency And To Align The Interests Of The Utility And Its Customers***

Appendix A to this brief is a copy of the November 16, 2005 ***Resolution on Energy Efficiency and Innovative Rate Design***, which was adopted by the National Association of Regulatory Utility Commissioners. Following are some salient portions of the resolution relevant to the consideration of a decoupling mechanism in this proceeding:

**WHEREAS**, Energy conservation and energy efficiency are, in the short term, the actions most likely to reduce upward pressure on natural gas prices and to assist in bringing energy prices down, to the benefit of all natural gas consumers; and

**WHEREAS**, Innovative rate designs including “energy efficient tariffs” and “decoupling tariffs” (such as those employed by Northwest Natural Gas in Oregon, Baltimore Gas & Electric and Washington Gas in Maryland, Southwest Gas in California, and Piedmont Natural Gas in North Carolina), “fixed-variable” rates (such as that employed by Northern States Power in North Dakota, and Atlanta Gas Light in Georgia), other options (such as that approved in Oklahoma for Oklahoma Natural Gas), and other innovative proposals and programs may assist, especially in the short term, in promoting energy efficiency and energy conservation and slowing the rate of demand growth of natural gas; and

**WHEREAS**, Current forms of rate design may tend to create a misalignment between the interests of natural gas utilities and their customers, now therefore be it

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC), convened in its November 2005 Annual Convention in Indian Wells, California, encourages State commissions and other policy makers to review the rate designs they have previously approved to determine whether they should be reconsidered in order to implement innovative rate designs that will encourage energy conservation and energy efficiency that will assist in moderating natural gas demand and reducing upward pressure on natural gas prices . . . [Underlining added]

Appendix **B** to this brief is a copy of the November 17, 2005 release by the American Gas Association (AGA) commending “NARUC’s leaders for taking a holistic approach with their latest policy recommendations.” Following are some salient portions of the AGA release relevant to the consideration of a decoupling mechanism in this proceeding:

Here is a summary of the resolutions, the full text of which is expected to be posted soon on the NARUC website ([www.naruc.org](http://www.naruc.org)):

**(2) Energy efficiency and innovative rate design:** For the last few years, NARUC has passed resolutions encouraging state commissions to support expansion of energy efficiency programs. This week, NARUC observed that the traditional state approach to regulating the rates that utilities charge to deliver natural gas (basing utilities’ ability to recover their fixed costs on the volumes of natural gas they deliver to customers) “may tend to create a misalignment between the interests of natural gas utilities and the goals of energy efficiency and energy conservation.”

- NARUC’s resolution encourages state utility commissions “to review the rate designs they have previously approved to determine whether they should be reconsidered into (sic) order to implement innovative rate designs that will encourage energy conservation and energy efficiency that will assist in moderating natural gas demand and reducing upward pressure on natural gas prices.”

Southwest respectfully urges the Administrative Law Judge and the Commissioners to reject the “wait and see” posture advanced by SWEEP/NRDC and, instead, to join the ranks of the Commissions that are supporting innovative rate mechanisms that align the interests of the utility with the interests of its customers in encouraging conservation and energy efficiency.

***SWEEP/NRDC’s Opposition To A Higher Basic Service Charge And A Tiered Rate Structure That Betters Southwest’s Opportunity To Recover Its Fixed Costs Ignores The Declining Average Residential Consumption Phenomenon That All Parties Agree Has Been Plaguing Southwest***

For all of the reasons Southwest has advanced throughout this proceeding in prefiled direct testimony, testimony provided during the hearing and post-hearing briefs, it would be consistent with the best interests of Southwest’s customers to have Southwest’s financial profile improved. The record is replete with evidence that the adoption of a rate design favored by SWEEP/NRDC would frustrate any effort for improvement, if not worsen, Southwest’s financial profile. It would be predictable with reasonable certainty that a rate design such as that favored by SWEEP/NRDC [without a decoupling mechanism] would ensure that Southwest would continue to experience an earnings shortfall, with the adverse consequences for both Southwest and its customers inherent in such a result.

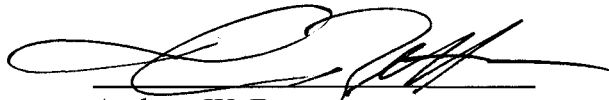
Southwest respectfully urges the Administrative Law Judge and the Commissioners to reject the rate design favored by SWEEP/NRDC and, instead, to approve a rate design that best aligns the interests of Southwest and its customers.

**Conclusion**

Southwest implores the Commission to consider the implementation of a decoupling mechanism such as the CMT proposed by Southwest in this proceeding. With such a mechanism in place, all stakeholders would win. Southwest would recover the level of margin authorized by

the Commission, Southwest's customers would be protected against the risk that Southwest could earn more than the Commission-authorized level of margin and everyone could go about the business of aggressively conserving the natural gas resource.

Respectfully submitted this 23<sup>rd</sup> day of November, 2005.

A handwritten signature in black ink, appearing to read "Andrew W. Bettwy", is written over a horizontal line.

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## Appendix A

***Resolution on Energy Efficiency and Innovative Rate Design***

**WHEREAS**, The National Association of Regulatory Utility Commissioners (NARUC), at its July 2003 Summer Meetings, adopted a *Resolution on State Commission Responses to the Natural Gas Supply Situation* that encouraged State and Federal regulatory commissions to review the incentives for existing gas and electric utility programs designed to promote and aggressively implement cost-effective conservation, energy efficiency, weatherization, and demand response; *and*

**WHEREAS**, The NARUC at its November 2003 annual convention, adopted a *Resolution Adopting Natural Gas Information "Toolkit,"* which encouraged the NARUC Natural Gas Task Force to review the findings and recommendations of the September 23, 2003 report by the National Petroleum Council on *Balancing Natural Gas Policy – Fueling the Demands of a Growing Economy* and its recommendations for improving and promoting energy efficiency and conservation initiatives; *and*

**WHEREAS**, The NARUC at its 2004 Summer Meetings, adopted a *Resolution on Gas and Electric Energy Efficiency* encouraging State commissions and other policy makers to support expansion of energy efficiency programs, including consumer education, weatherization, and energy efficiency and to address regulatory incentives to inefficient use of gas and electricity; *and*

**WHEREAS**, These NARUC initiatives were prompted by the substantial increases in the price of natural gas in wholesale markets during the 2000-2003 period when compared to the more moderate prices that prevailed throughout the 1990s; *and*

**WHEREAS**, The wholesale natural gas prices of the last five years largely reflect the fact that the demand by consumers for natural gas has been growing steadily while, for a variety of reasons, the supply of natural gas has had difficulty keeping pace, leading to a situation where natural gas demand and supply are narrowly in balance and where even modest increases in demand produce sharp increases in price; *and*

**WHEREAS**, Hurricanes Katrina and Rita, in addition to damaging the States of Alabama, Mississippi, Louisiana, and Texas, significantly damaged the nation's onshore and offshore energy infrastructure, resulting in significant interruption in the production and delivery of both oil and natural gas in the Gulf Coast area; *and*

**WHEREAS**, The confluence of a tight balance of natural gas supply and demand and these natural disasters has driven natural gas prices in wholesale markets to unprecedented levels; *and*

**WHEREAS**, The present high and unprecedented level of natural gas prices are imposing significant burdens on the nation's natural gas consumers, whether residential, commercial, or industrial, and will likely be injurious to the nation's economy as a whole; *and*

**WHEREAS**, The recently enacted Energy Policy Act of 2005 contains a number of provisions aimed at encouraging further natural gas production in order to bring down prices for consumers,

but these actions, together with any further action on energy issues by Congress, are unlikely to bring forth additional supplies of natural gas in the short term; *and*

**WHEREAS**, Energy conservation and energy efficiency are, in the short term, the actions most likely to reduce upward pressure on natural gas prices and to assist in bringing energy prices down, to the benefit of all natural gas consumers; *and*

**WHEREAS**, Innovative rate designs including “energy efficient tariffs” and “decoupling tariffs” (such as those employed by Northwest Natural Gas in Oregon, Baltimore Gas & Electric and Washington Gas in Maryland, Southwest Gas in California, and Piedmont Natural Gas in North Carolina), “fixed-variable” rates (such as that employed by Northern States Power in North Dakota, and Atlanta Gas Light in Georgia), other options (such as that approved in Oklahoma for Oklahoma Natural Gas), and other innovative proposals and programs may assist, especially in the short term, in promoting energy efficiency and energy conservation and slowing the rate of demand growth of natural gas; *and*

**WHEREAS**, Current forms of rate design may tend to create a misalignment between the interests of natural gas utilities and their customers; *now therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC), convened in its November 2005 Annual Convention in Indian Wells, California, encourages State commissions and other policy makers to review the rate designs they have previously approved to determine whether they should be reconsidered in order to implement innovative rate designs that will encourage energy conservation and energy efficiency that will assist in moderating natural gas demand and reducing upward pressure on natural gas prices; *and be it further*

**RESOLVED**, That NARUC recognizes that the best approach toward promoting energy efficiency programs for any utility, State, or region may likely depend on local issues, preferences, and conditions.

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*Sponsored by the Committee on Gas*

*Recommended by the NARUC Board of Directors November 15, 2005*

*Adopted by the NARUC November 16, 2005*



## Appendix B



## American Gas Association

Contact: Peggy Laramie  
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November 17, 2005  
PR - 71

### **NARUC Passes Resolutions Supporting LIHEAP and Innovative State Rate Reforms; Also Urges Deference to States' Expertise on Distribution Integrity Management and Excess Flow Valves**

Washington, D.C. - During their annual convention this week, state utility regulators adopted resolutions urging significantly increased federal heating-bill assistance for low-income consumers, consideration of innovative natural gas utility rate mechanisms to increase energy efficiency and reduce consumer bills, and federal deference to the expertise of state safety regulators regarding new gas distribution safety rules, according to the American Gas Association (AGA).

The resolutions were adopted by the National Association of Regulatory Utility Commissioners (NARUC).

"We commend NARUC's leaders for looking critically at why natural gas prices have risen so much, and for taking a holistic approach with their latest policy recommendations," said Kyle Rogers, AGA director of regulatory affairs. "Through its new resolutions, NARUC has attempted to address the dire need for additional funds to help low-income individuals pay their energy bills, the benefits of innovative state rate structures that better fit within the paradigm of higher commodity prices and the paramount issue of safe, reliable delivery of natural gas."

Here is a summary of the resolutions, the full text of which is expected to be posted soon on the NARUC website ([www.naruc.org](http://www.naruc.org)):

**(1) Full funding for the Low-Income Home Energy Assistance Program:** NARUC noted that the rising costs of natural gas, heating oil, propane and electricity have forced many low-income consumers to sacrifice medical care, skip a rent or mortgage payment or go without food for at least a day. The commissioners said "insufficient funding for LIHEAP will have a devastating effect on low-income consumers this winter."

- NARUC urged Congress to fully fund LIHEAP in fiscal 2006 with at least \$5.1 billion, and also to provide an advanced appropriation of at least that amount for fiscal 2007. LIHEAP funding in recent years has hovered around \$2 billion.
- NARUC also resolved to support "a concerted effort by the Committees on Consumer Affairs, Electricity and Gas to establish partnerships with targeted businesses, gas and electric utilities, and community-based social service organizations to develop a comprehensive national marketing and

communications plan to highlight and promote LIHEAP and the continuing need for energy assistance."

**(2) Energy efficiency and innovative rate design:** For the last few years, NARUC has passed resolutions encouraging state commissions to support expansion of energy efficiency programs. This week, NARUC observed that the traditional state approach to regulating the rates that utilities charge to deliver natural gas (basing utilities' ability to recover their fixed costs on the volumes of natural gas they deliver to customers) "may tend to create a misalignment between the interests of natural gas utilities and the goals of energy efficiency and energy conservation."

- NARUC's resolution encourages state utility commissions "to review the rate designs they have previously approved to determine whether they should be reconsidered in order to implement innovative rate designs that will encourage energy conservation and energy efficiency that will assist in moderating natural gas demand and reducing upward pressure on natural gas prices."
- The resolution recognized several utilities that have received state permission to offer innovative rates that may help "especially in the short term in promoting energy efficiency and energy conservation, and slowing the rate of demand growth of natural gas. Those utilities are: Northwest Natural Gas in Oregon, Baltimore Gas and Electric in Maryland, Washington Gas in Maryland, Southwest Gas in California and Piedmont Natural Gas in North Carolina for energy efficient tariffs and decoupling tariffs; Northern States Power in North Dakota and Atlanta Gas Light in Georgia for fixed-variable rates; and Oklahoma Natural Gas for its **new rate choice option.**

**(3) Distribution integrity management and excess flow valves.** A significant percentage of local utilities have chosen voluntarily to install excess flow valves, which are safety devices that may mitigate a hazard caused from the release of natural gas in the event a service line is severed. NARUC's resolution noted that federal regulations have established a performance-based regulation for excess flow valve installation "which allows gas utility operators to choose to either install the devices or to notify customers of its availability and associated costs of such installation."

- NARUC's resolution "encourages federal agencies and legislators to recognize that state officials are well positioned to understand the operational conditions and circumstances of the local gas distribution companies, including the installation of excess flow valve devices, and urges these federal officials to be guided by the report of the Distribution Integrity Management Team and considered additional regulation of the safety of gas distribution systems, to the maximum extent practical, is best decided by the affected state regulatory bodies."

**(4) State pre-approval of long-term contracts:** NARUC also passed a resolution that encourages state regulators to "recognize the need for additional gas infrastructure", "[c]onsider long-term contracting as a potentially appropriate ingredient in a gas utility's portfolio strategy", "[e]ncourage gas utilities to develop long-term strategies for capacity and supply", "[n]ot discourage long-term transportation and storage contracts when a specific record merits encouragement", and "[c]onsider pre-approval of long-term contracts".

*The American Gas Association represents 195 local energy utility companies that deliver natural gas to more than 56 million homes, businesses and industries throughout the United States. Natural gas meets one-fourth of the United States' energy needs.*

**ORIGINAL and 13 COPIES OF  
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day of November 2005, with:**

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